

Remarks

The Advisory Action dated November 9, 2004 indicates that the Amendment submitted June 23, 2004 will be entered and thus, claims 2-9, 12-13 and -18-22 are pending. It is respectfully submitted that the pending claims define allowable subject matter.

Initially, the Examiner is thanked for discussing the present application with the undersigned. The present Request for Reconsideration is being submitted because, in view of the teleconference with the Examiner, the attached 132 Declaration is believed to overcome the only remaining issue for appeal. During the teleconference, it was agreed that the undersigned would submit a 132 Declaration which is being filed concurrently herewith. It is believe that good and sufficient reason exists for filing the 132 Declaration at this time.

Claims 2-9, 12-13 and 16-23 have been rejected under 35 U.S.C. 102(b) as being anticipated by Mao (USP 6,279,706). Claim 23 has been rejected under 35 U.S.C. 102(b) as being anticipated by Zwanzig (USP 5,464,081) or Liang (USP 5,464,080). Claims 15-16 have been rejected under 35 U.S.C. 103 as being unpatentable over Gelb (WO 9638066) in view of JP '929. Claims 16-17 have been rejected under 35 U.S.C. 102(b) as being anticipated by JP 285329. Upon entry of the amendment of June 23, 2004, claims 2, 10-11, 14-17 and 23 will be cancelled without prejudice or disclaimer of the subject matter therein, thereby obviating the rejections based on Rhaney, Liang, Gelb, JP '929 and JP '285329.

The remaining pending claims 2-9, 12-13 and -18-22 have been rejected only under 35 U.S.C. 102(e) as being anticipated by the Mao patent. Claims 2-9, 12-13 and -18-22 have not been objected to, nor rejected, for any other reason. For reasons set forth below, it is respectfully submitted that the Mao patent does not constitute prior art against the pending claims as the subject matter described in the Mao patent that relates to the pending claims was invented by the inventor, Cory Nykoluk, of the present application, not by Chen Shou Mao (the sole named inventor on the Mao patent).

It is well settled law that an inventor's own prior work will not anticipate his later invention unless that prior work is such as to constitute a statutory bar Panduit Corp. V Dennison Mfg. Co., 810 F.2d 1561, 1581, 1 USPQ2d 1593, 1608 (Fed. Cir. 1987). An applicant may

eliminate a reference by showing that the reference disclosure is derived from the applicant's own work.

Submitted herewith is a Declaration of Inventor under 37 CFR 1.132 (hereafter the "132 Declaration") signed by the sole inventor of the claimed subject matter of the present application, Cory Nykoluk. The 132 Declaration clearly states that the subject matter described in the Mao patent, that relates to the claims of the present application, represents the work of the inventor, Cory Nykoluk, of the present application. The subject matter described in the Mao patent, that relates to the claims of the present application, does not represent the work of Chen Shou Mao or any other person. As such, the Mao patent does not constitute prior art under 35 U.S.C. 102(e).

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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